must cease. The FAA will provide at least 45 days' notice unless otherwise required by operational needs.

(f) Any common slot or limited slot that is temporarily withdrawn under this paragraph will be reassigned, if at all, only to the carrier from which it was withdrawn, provided the carrier continues to conduct scheduled operations at the respective airport.

(g) Should the Administrator determine that the cap on scheduled operations at Newark or JFK is too high, he may withdraw common slots to reduce the cap. Any such action by the Administrator shall be subject to the notice and comment provisions of the Administrative Procedure Act.

§ 93.168 Sublease and transfer of slots.

(a) A carrier may sublease its slots to another carrier in accordance with this section and subject to the provisions of the carrier's lease agreement with the FAA. The character of the slot (e.g., common slot) will not change.

(b) A carrier must provide notice to the FAA to sublease a slot. Such notice must contain: the slot number and time, effective dates and, if appropriate, the duration of the lease. The carrier may also provide the FAA with a minimum bid price.

(c) The FAA will post a notice of the offer to sublease the slot and relevant details on the FAA Web site at *http:// www.faa.gov*. An opening date, closing date and time by which bids must be received will be provided.

(d) Upon consummation of the transaction, written evidence of each carrier's consent to sublease must be provided to the FAA, as well as all bids received and the terms of the sublease, including but not limited to:

(1) The names of all bidders and all parties to the transaction;

(2) The offered and final length of the sublease;

(3) The consideration offered by all bidders and provided by the sublessee.

(e) The slot may not be used until the conditions of paragraph (d) of this section have been met, and the FAA provides notice of its approval of the sublease.

(f) Slots may be transferred among a U.S. carrier and another carrier that conducts operations at JFK or Newark solely under the transferring carrier's marketing control, including the entire inventory of the flight. Each party to such transfer must provide written evidence of its consent to the transfer and the FAA must confirm and approve these transfers in writing prior to the effective date of the transaction. However, the FAA will approve transfers under this paragraph up to five business days after the actual operation to accommodate operational disruptions that occur on the same day of the scheduled operation. The FAA Vice President, System Operations Services is the final decision-maker for any determinations under this section.

(g) A carrier wishing to sublease a slot via an FAA auction under § 93.165, rather than pursuant to this section, may do so. The carrier shall retain the proceeds and the slot shall retain the same designation that it had prior to the carrier placing it up for auction.

§ 93.169 One-for-one trade of slots.

(a) A carrier may trade a slot with another carrier on a one-for-one basis.

(b) Written evidence of each carrier's consent to the trade must be provided to the FAA.

(c) No recipient of the trade may use the acquired slot until written confirmation has been received from the FAA.

(d) Carriers participating in a one-for-one trade must certify to the FAA that no consideration or promise of consideration was provided by either party to the trade.

§ 93.170 Minimum usage requirements.

(a) This section does not apply to unrestricted slots.

(b) Any common slot or limited slot included in a summer or winter season schedule approved by the FAA that is not used at least 80 percent of the time during the period for which it is assigned will be withdrawn by the FAA.

(c) The FAA may waive the requirements of paragraph (b) of this section in the event of a highly unusual and unpredictable condition which is beyond the control of the carrier and which affects carrier operations for a period of five or more consecutive days. Examples of conditions which